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HOUSE BILL 384

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Hector H. Balderas

AN ACT

RELATING TO DOMESTIC VIOLENCE; APPLYING THE DOMESTIC VIOLENCE  
OFFENDER TREATMENT FEE TO ALL MOTOR VEHICLE CODE VIOLATIONS;  
MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-12-12 NMSA 1978 (being Laws 2003,  
Chapter 387, Section 2) is amended to read:

"31-12-12. DOMESTIC VIOLENCE OFFENDER TREATMENT FUND  
CREATED--APPROPRIATION--PROGRAM REQUIREMENTS.--

A. The "domestic violence offender treatment fund"  
is created in the state treasury. All domestic violence  
offender treatment fees collected [~~pursuant to the provisions  
of Section 1 of this~~] shall be transmitted monthly to the  
department of finance and administration for credit to the  
domestic violence offender treatment fund.

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1           B. Balances in the domestic violence offender  
2 treatment fund are appropriated to the children, youth and  
3 families department to provide funds to domestic violence  
4 offender treatment programs to defray the cost of providing  
5 treatment to domestic violence offenders. Unexpended or  
6 unencumbered balances remaining in the fund at the end of any  
7 fiscal year shall not revert to the general fund.

8           C. Payment out of the domestic violence offender  
9 treatment fund shall be made on vouchers issued and signed by  
10 the secretary of children, youth and families upon warrants  
11 drawn by the department of finance and administration.

12           D. In order to be eligible for money from the  
13 domestic violence offender treatment fund, a domestic violence  
14 offender treatment program shall include the following  
15 components in its program:

16                   (1) an initial assessment to determine if a  
17 domestic violence offender will benefit from participation in  
18 the program;

19                   (2) a written contract, which must be signed  
20 by the domestic violence offender, that sets forth:

21                           (a) attendance and participation  
22 requirements;

23                           (b) consequences for failure to attend  
24 or participate in the program; and

25                           (c) a confidentiality clause that

1 prohibits disclosure of information revealed during treatment  
2 sessions;

3 (3) strategies to hold domestic violence  
4 offenders accountable for their violent behavior;

5 (4) a requirement that group discussions are  
6 limited to members of the same gender;

7 (5) an education component that:

8 (a) defines physical, emotional, sexual,  
9 economic and verbal abuse and techniques for stopping those  
10 forms of abuse; and

11 (b) examines gender roles,  
12 socialization, the nature of violence, the dynamics of power  
13 and control and the effects of domestic violence on children;

14 (6) a requirement that a domestic violence  
15 offender not be under the influence of alcohol or drugs during  
16 a treatment session;

17 (7) a requirement that the program provide  
18 monthly written reports to the presiding judge or the domestic  
19 violence offender's probation or parole officer regarding:

20 (a) proof of the domestic violence  
21 offender's enrollment in the program;

22 (b) progress reports that address the  
23 domestic violence offender's attendance, fee payments and  
24 compliance with other program requirements; and

25 (c) evaluations of progress made by the

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1 domestic violence offender and recommendations as to whether or  
2 not to require the offender's further participation in the  
3 program; and

4 (8) a requirement that the term of the program  
5 be at least fifty-two weeks.

6 E. Counseling for couples shall not be a component  
7 of a domestic violence offender treatment program.

8 F. As used in this section, "domestic violence  
9 offender" means:

10 (1) a person convicted for an offense pursuant  
11 to the provisions of the Crimes Against Household Members Act;  
12 or

13 (2) a person convicted for violating an order  
14 of protection granted by a court pursuant to the provisions of  
15 the Family Violence Protection Act."

16 Section 2. Section 35-6-1 NMSA 1978 (being Laws 1968,  
17 Chapter 62, Section 92, as amended) is amended to read:

18 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
19 "CONVICTED".--

20 A. Magistrate judges, including metropolitan court  
21 judges, shall assess and collect and shall not waive, defer or  
22 suspend the following costs:

23 docket fee, criminal actions under Section 29-5-1 NMSA  
24 1978 . . . . . \$1.00;  
25 docket fee, to be collected prior to docketing any other

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1 criminal action, except as provided in Subsection B  
2 of Section 35-6-3 NMSA 1978 . . . . . 20.00.  
3 Proceeds from this docket fee shall be transferred  
4 to the administrative office of the courts for  
5 deposit in the court facilities fund;  
6 docket fee, ten dollars (\$10.00) of which shall be  
7 deposited in the court automation fund and fifteen  
8 dollars (\$15.00) of which shall be deposited in the  
9 civil legal services fund, to be collected prior to  
10 docketing any civil action, except as provided in  
11 Subsection A of Section 35-6-3 NMSA 1978 . . 62.00;  
12 jury fee, to be collected from the party demanding trial  
13 by jury in any civil action at the time the demand  
14 is filed or made . . . . . 25.00;  
15 copying fee, for making and certifying copies of any  
16 records in the court, for each page copied by  
17 photographic process . . . . . .50.  
18 Proceeds from this copying fee shall be transferred  
19 to the administrative office of the courts for  
20 deposit in the court facilities fund; and  
21 copying fee, for computer-generated or electronically  
22 transferred copies, per page . . . . . 1.00.  
23 Proceeds from this copying fee shall be transferred  
24 to the administrative office of the courts for  
25 deposit in the court automation fund.

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1           Except as otherwise specifically provided by law, docket  
2 fees shall be paid into the court facilities fund.

3           B. Except as otherwise provided by law, no other  
4 costs or fees shall be charged or collected in the magistrate  
5 or metropolitan court.

6           C. The magistrate or metropolitan court may grant  
7 free process to any party in any civil proceeding or special  
8 statutory proceeding upon a proper showing of indigency. The  
9 magistrate or metropolitan court may deny free process if it  
10 finds that the complaint on its face does not state a cause of  
11 action.

12           D. As used in this subsection, "convicted" means the  
13 defendant has been found guilty of a criminal charge by the  
14 magistrate or metropolitan judge, either after trial, a plea of  
15 guilty or a plea of nolo contendere. Magistrate judges,  
16 including metropolitan court judges, shall assess and collect  
17 and shall not waive, defer or suspend the following costs:

18                   (1) corrections fee, to be collected upon  
19 conviction from persons convicted of violating any provision of  
20 the Motor Vehicle Code involving the operation of a motor  
21 vehicle, convicted of a crime constituting a misdemeanor or a  
22 petty misdemeanor or convicted of violating any ordinance that  
23 may be enforced by the imposition of a term of imprisonment as  
24 follows:

25           in a county with a metropolitan court . . . . . \$10.00;

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1 in a county without a metropolitan court . . . . . 20.00;

2 (2) court automation fee, to be collected upon  
3 conviction from persons convicted of violating any provision of  
4 the Motor Vehicle Code involving the operation of a motor  
5 vehicle, convicted of a crime constituting a misdemeanor or a  
6 petty misdemeanor or convicted of violating any ordinance that  
7 may be enforced by the imposition of a term of  
8 imprisonment . . . . . 10.00;

9 (3) traffic safety fee, to be collected upon  
10 conviction from persons convicted of violating any provision of  
11 the Motor Vehicle Code involving the operation of a motor  
12 vehicle . . . . . 3.00;

13 (4) judicial education fee, to be collected upon  
14 conviction from persons convicted of operating a motor vehicle  
15 in violation of the Motor Vehicle Code, convicted of a crime  
16 constituting a misdemeanor or a petty misdemeanor or convicted  
17 of violating any ordinance punishable by a term of  
18 imprisonment . . . . . 2.00;

19 (5) brain injury services fee, to be collected  
20 upon conviction from persons convicted of violating any  
21 provision of the Motor Vehicle Code involving the operation of  
22 a motor vehicle . . . . . 5.00;  
23 [and]

24 (6) domestic violence offender treatment fee, to  
25 be collected upon conviction from persons convicted of

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1 violating any provision of the Motor Vehicle Code involving the  
2 operation of a motor vehicle . . . . . 5.00;

3 and

4 [~~6~~] (7) court facilities fee, to be collected  
5 upon conviction from persons convicted of violating any  
6 provision of the Motor Vehicle Code involving the operation of  
7 a motor vehicle, convicted of a crime constituting a  
8 misdemeanor or a petty misdemeanor or convicted of violating  
9 any ordinance that may be enforced by the imposition of a term  
10 of imprisonment as follows:

11 in a county with a metropolitan court . . . . . 24.00;  
12 in any other county . . . . . 10.00.

13 E. Metropolitan court judges shall assess and collect  
14 and shall not waive, defer or suspend as costs a mediation fee  
15 not to exceed five dollars (\$5.00) for the docketing of small  
16 claims and criminal actions specified by metropolitan court  
17 rule. Proceeds of the mediation fee shall be deposited into  
18 the metropolitan court mediation fund."

19 Section 3. Section 66-8-116.3 NMSA 1978 (being Laws  
20 1989, Chapter 318, Section 35, Laws 1989, Chapter 319,  
21 Section 14 and Laws 1989, Chapter 320, Section 5, as amended)  
22 is amended to read:

23 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--  
24 ADDITIONAL FEES.--In addition to the penalty assessment  
25 established for each penalty assessment misdemeanor, there

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1 shall be assessed:

2 A. in a county without a metropolitan court, twenty  
3 dollars (\$20.00) to help defray the costs of local government  
4 corrections;

5 B. a court automation fee of ten dollars (\$10.00);

6 C. a traffic safety fee of three dollars (\$3.00),  
7 which shall be credited to the traffic safety education and  
8 enforcement fund;

9 D. a judicial education fee of two dollars (\$2.00),  
10 which shall be credited to the judicial education fund;

11 E. a brain injury services fee of five dollars  
12 (\$5.00), which shall be credited to the brain injury services  
13 fund; [~~and~~]

14 F. a domestic violence offender treatment fee of  
15 five dollars (\$5.00), which shall be credited to the domestic  
16 violence offender treatment fund; and

17 [~~F.~~] G. a court facilities fee as follows:

18 in a county with a metropolitan court . . . . . \$24.00;

19 in any other county . . . . . 10.00."

20 Section 4. Section 66-8-119 NMSA 1978 (being Laws 1968,  
21 Chapter 62, Section 159, as amended) is amended to read:

22 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

23 A. The division shall remit all penalty assessment  
24 receipts, except receipts collected pursuant to Subsections A  
25 through [~~F~~] G of Section 66-8-116.3 NMSA 1978, to the state

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1 treasurer for credit to the general fund.

2 B. The division shall remit all penalty assessment  
3 fee receipts collected pursuant to:

4 (1) Subsection A of Section 66-8-116.3 NMSA  
5 1978 to the state treasurer for credit to the local  
6 government corrections fund;

7 (2) Subsection B of Section 66-8-116.3 NMSA  
8 1978 to the state treasurer for credit to the court  
9 automation fund;

10 (3) Subsection C of Section 66-8-116.3 NMSA  
11 1978 to the state treasurer for credit to the traffic safety  
12 education and enforcement fund;

13 (4) Subsection D of Section 66-8-116.3 NMSA  
14 1978 to the state treasurer for credit to the judicial  
15 education fund;

16 (5) Subsection E of Section 66-8-116.3 NMSA  
17 1978 to the state treasurer for credit to the brain injury  
18 services fund; ~~and~~

19 (6) Subsection F of Section 66-8-116.3 NMSA  
20 1978 to the state treasurer for credit to the domestic  
21 violence offender treatment fund; and

22 [~~6~~] (7) Subsection [~~F~~] G of Section  
23 66-8-116.3 NMSA 1978 to the state treasurer for credit to the  
24 court facilities fund."